

REMARKS/ARGUMENTS

The specification has been amended to remove the embedded hyper-link, as noted by the Examiner.

Claims 9, 12-14, 21, 28-51, 54 and 58-66 have been canceled in accordance with the earlier restriction requirement and to narrow the issues in the case. Applicant retains the right to present claims to the cancelled subject matter in a divisional application.

Claims 15-19, and 52 have been amended to correct the multiple dependencies.

Claim 55 has been amended to depend on claim 11.

Amendments have been made to claims 55 and 57 for clarity purposes.

The other objections raised by the Examiner have been rendered moot by the cancellation of the claims involved.

New claims 67-70 have been added. Support for the new claims can be found in the specification at page 24, lines 1-10, page 84, line 25 and in examples 3 and 7. No new matter has been added.

In order to reduce the issues in this application and advance the case, Claims 1-10 have been cancelled and the remaining claims have been drawn to the subject matter of Claim 11, which the Examiner has indicated is allowable. All of the remaining claims depend on claim 11. Applicants reserve the right to present claims to the cancelled subject matter in one or more continuation and/or divisional applications.

The Rejections under 35 USC 112

Second Paragraph Rejections

- A. The 35 USC 112, second paragraph rejections of claims 4-5, 9, 12-22 and 56-58 have been rendered moot by the cancellation or amendment of the dependency of the claims.
- B. Claim 23 has been amended to correct the antecedent basis for “dacarbazine”.

First Paragraph Rejections

Claims 5-6, 12-27, 52-53 and 56-58 were rejected under 35 USC 112, first paragraph. The rejection has been rendered moot by the cancellation of claims 5-6 and the reference to the CNT095 germline sequence. Claim 11 refers to the variable region sequences for the heavy and light chain which are given in SEQ ID NO:7 and SEQ ID NO:8. Since the sequences are disclosed in the application, there is no longer any question that the claims are fully enabled.

The Examiner has also made reference to the recitation in claim 15 to the M21 cell, indicating that a deposit of the cell would be necessary to carry out the invention as claimed. Applicants respectfully disagree. The recitation of the M21 cell in claim 15 is a reference to a bioassay which is used to determine the biological activity of the antibody, it is not the cell line which is used to produce the antibody. As set forth in the specification at page 87, line 21-24, the M21 cell line is a widely available human melanoma cell line expressing the α V β 3 and α V β 5

integrins. A quick search on the internet will show that the cell line is widely available and is frequently cited in numerous publications. Accordingly, it is applicant's position that no deposit is necessary to practice the invention or to carry out the bioassay referred to in claim 15.

Claims 1-10, 12-27, 52-53 and 55-58 were rejected under 35 USC 112, first paragraph. The rejection has been rendered moot by the cancellation of the claims and the amendment of the remaining claims to depend on claim 11.

The rejections under 35 USC 102 and 103 have also been rendered moot by the cancellation or amendment of the disputed claims.

It should be noted that applicants are not conceding any of the arguments raised by the Examiner in the 112, 102 or 103 rejections, but will address the issues by presenting appropriate claims in one or more continuation or divisional applications. Cancellation of the claims has been done in order to allow the undisputed claims to issue in this application.

It is applicant's intent to abandon co-pending application 09/920,267 upon allowance of claims in this application, so the obviousness-type double patenting rejection can be withdrawn.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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